National Labor Relations Board



Weekly Summary of NLRB Cases

Division of Information	Washington, D.C. 20570	Tel. (202) 273-1991
August 20, 2004		W-2961
<u>VI</u>	CASES SUMMARIZED SIT WWW.NLRB.GOV FOR FULL TEXT	
Toma Metals, Inc.	Johnstown, PA	1
	OTHER CONTENTS	
List of Decisions of Administrative Law Judges		1
<u>List of Unpublished Board Decisions and Orders in Representation</u> <u>Cases</u>		2
 Contested Reports of F Uncontested Reports of Requests for Review of Elections and Decision 		
 Miscellaneous Roard (Irderc	

The Weekly Summary of NLRB Cases is prepared by the NLRB Division of Information and is available on a paid subscription basis. It is in no way intended to substitute for the professional services of legal counsel, or for the authoritative judgments of the Board. The case summaries constitute no part of the opinions of the Board. The Division of Information has prepared them for the convenience of subscribers.

If you desire the full text of decisions summarized in the Weekly Summary, you can access them on the NLRB's Web site (www.nlrb.gov). Persons who do not have an Internet connection can request a limited number of copies of decisions by writing the Information Division, 1099 14th Street, NW, Suite 9400, Washington, DC 20570 or fax your request to 202/273-1789. As of August 1, 2003, Administrative Law Judge decisions are on the Web site.

All inquiries regarding subscriptions to this publication should be directed to the Superintendent of Documents, U. S. Government Printing Office, Washington, DC 20402, 202/512-1800. Use stock number 731-002-0000-2 when ordering from GPO. Orders should not be sent to the NLRB.

Toma Metals, Inc. (6-CA-32055, et al.; 342 NLRB No. 78) Johnstown, PA Aug. 13, 2004. The Board affirmed the administrative law judge's finding that the Respondent violated Section 8(a)(3) and (1) of the Act by selecting employee David Antal Jr. for layoff because of his union and protected concerted activities and Section 8(a)(5) and (1) by laying off employees without providing Steelworkers District 10 with adequate notice and opportunity to bargain about the layoffs. [HTML] [PDF]

Members Liebman and Schaumber adopted the judge's finding that the Respondent violated Section 8(a)(5) and (1) by recalling laid-off employees without providing the Union with adequate notice and opportunity to bargain about the recalls. Chairman Battista, in his partial dissent, disagreed with his colleagues and the judge that the Respondent's recall of its laid-off employees was unlawful. He argued that while the Union subsequently became aware that there would be recalls, the Union never requested bargaining about the manner in which the recalls would be undertaken. In his view, the Union waived its right to bargain over the recalls.

Chairman Battista and Member Schaumber reversed the judge's finding that the Respondent violated Section 8(a)(1) by interrogating Antal about his union and protected concerted activities and the union activities and sympathies of his fellow employees. They contended that plant materials manager Richard Hajko Jr.'s questioning of Antal was prompted by employees who asked Hajko whether rumors of union organizing were true. Hajko did not know the answer and sought to find out. Chairman Battista and Member Schaumber held that the question was not a coercive interrogation—Hajko was simply trying to track down a rumor that a union campaign had begun.

Contrary to her colleagues, Member Liebman would find that Hajko unlawfully interrogated Antal when Hajko specifically sought out Antal to confirm the truth of a rumor that the Union was engaging in organizing activity in the Respondent's plant. While Hajko's interrogation of Antal was prompted by questions from other employees, Member Liebman asserted that it could still be coercive. She wrote: "A reasonable employee, suspecting his employer's antiunion animus, would be more likely to regard an interrogation as coercive if he was also aware of the employer's suspicion that organizing activity was underway."

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by Steelworkers District 10; complaint alleged violation of Section 8(a)(1), (3), and (5). Hearing at Johnstown on Dec. 17, 2001. Adm. Law Judge Paul Buxbaum issued his decision May 10, 2002.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Lee Builders Inc. (Alabama Carpenters Regional Council-Local 1274) Huntsville, AL August 9, 2004. 10-CA-33718; JD(ATL)-34-04, Judge Lawrence W. Cullen.

Engineered Plastic Components, Inc. (Auto Workers) Grinnell, IA August 10, 2004. 18-CA-17003, et al.; JD-71-04, Judge Benjamin Schlesinger.

L.B.&B. Associates, Inc. and Olgoonik Logistics, LLC, a Joint Venture d/b/a North Fork Services Joint Venture (Operating Engineers Local 30) Plum Island, NY August 9, 2004. 29-CA-25511, et al.; JD(NY)-36-04, Judge Eleanor MacDonald.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to Reports of Regional Directors or Hearing Officers)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Nevada Power Company, Las Vegas, NV, 28-RC-6268, August 12, 2004

DECISION AND ORDER

C & M Pipe Supply, Lynwood, IL, 13-RD-2457, August 12, 2004

DECISION AND DIRECTION OF SECOND ELECTION

Airgas Nor Pac, Inc., Portland, OR, 36-RC-6239, August 13, 2004

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Royal Airline Linen of San Francisco, LLC, Burlingame, CA, 20-RD-2380, August 12, 2004

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Acanthus Inc., New York, NY, 2-RC-22768, August 12, 2004 Grace Plaza Nursing & Rehabilitation Center, Great Neck, NY, 29-UC-520, August 12, 2004 U-Haul of California, Fremont, CA, 32-RC-5268, August 12, 2004 Genencor International Wisconsin, Inc., Beloit, WI, 30-RC-6576, August 12, 2004

Miscellaneous Board Orders

ORDER GRANTING REQUEST[of Petitioner to withdraw the petition]

Towne Bus, LLC, Holtsville, NY, 29-RC-10085, August 13, 2004
